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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
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DENVER, CO 80202-2466
<http://www.epa.gov/region08>

NOV 16 2000

Ref: ENF-T

Governor Marc Racicot
State Capitol
Helena, Montana 59620-0801

Re: Libby Asbestos Site

Dear Governor Racicot:

Thank you for your October 30, 2000 letter regarding the removal and safe disposal of asbestos-contaminated material in the Libby, Montana area. EPA shares your goal of identifying and cleaning up contaminated materials in Libby, successfully reclaiming the vermiculite mine near Libby, and helping those affected by exposure to asbestos as much and as quickly as possible.

In response to conditions EPA identified in Libby in November 1999 and thereafter, EPA issued an Action Memorandum authorizing the cleanup of the former export and screening plants, and other areas in and near Libby. EPA subsequently issued a Unilateral Administrative Order requiring W.R. Grace to remove asbestos-contaminated materials at the export plant. EPA also decided to conduct a removal action itself at the properties that constitute the former screening plant -- including properties owned by Kootenai Development Corporation (KDC), which is now a Grace Subsidiary, and Mel and Lerah Parker. EPA would like to dispose of the asbestos contaminated soil removed from the screening plant at the mine because of the soil's benefit to mine reclamation and the reduced expense as compared to off-Site disposal (the two reasons cited in your letter) and to reduce the risk of possible exposure during transportation. This is consistent with Grace's use of the mine as a disposal location for the asbestos-contaminated soil removed from the export plant.

Unfortunately, as you know, Grace and its subsidiary KDC have refused to provide access to the portions of the former screening plant currently under their ownership or control. Grace and KDC also have refused access to the mine for the disposal of soil removed from the screening plant properties. As we believe Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act,

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42 U.S.C. § 9604(e), authorizes access to these properties to "effectuate a removal action" we have initiated an action in Montana District Court to obtain the necessary access. We will proceed with the removal action as soon as access is authorized by the Court.

I fully agree that a cooperative solution to completing the screening plant removal action is desirable. To that end, we have addressed the explanations Grace has provided for its refusal to provide access in an effort to show that their reasons are not valid or are otherwise not permitted under the law. In addition, we have told Grace that if they provide access to the KDC properties, we are willing to negotiate procedures for a transition to allow Grace to conduct the cleanup work at the screening plant properties pursuant to a Consent Order that is subject to EPA oversight. Our proposal will meet Grace's stated desire to conduct more of the work at the site, will enable the work to begin and proceed expeditiously, and will ensure that the work is conducted safely and effectively. Grace has not responded to our proposal.

Thank you for your continued interest in the Libby Asbestos Site. Please contact me if you have any questions about this matter.

Sincerely,

Original Signed by:
BILL YELLOWTAIL

William P. Yellowtail
Regional Administrator

cc: William M. Corcoran
James D. Freeman, DOJ
Matthew Cohn, EPA